

IN THE UNITED STATES DISCTRRICT COURT
FOR THE DISTRICT OF DELAWARE

CORINE TERMONIA,)
)
Plaintiff,)
)
v.)
)
)
BRANDYWINE SCHOOL)
DISTRICT,)
)
Defendant.)

C.A. No.:
)
)
)
)
)
)
TRIAL BY JURY DEMANDED

COMPLAINT

THE PARTIES

1. The plaintiff, Corine Termonia (hereinafter referred to as "plaintiff") was at all times relevant to this complaint a resident of New Castle County, Delaware.
2. The defendant, Brandywine School District (hereinafter referred to as "the district") is an entity organized and existing under the laws of the State of Delaware, 14 Del.C. §1001, et.seq., which may be served at the office of the Superintendent at the District's Official Office, located at 1000 Pennsylvania Avenue, Claymont, Delaware 19703.

JURISDICTION

3. This Court has jurisdiction based upon the existence of a question arising under the laws of the United States of America. This action arises under Title VII, of the Civil Rights Act of 1954, 42 U.S.C. §2000e, et.seq., as amended by the Civil Rights Act of 1991, §704, Title VII, and 42 U.S.C. §1983. Accordingly, this Court has jurisdiction of the controversy based upon the provisions of 42 U.S.C. §2000e-5(f)(3) as well as 28 U.S.C. §§1331 and 1334.

VENUE

4. The unlawful employment practice alleged herein was committed within the State of Delaware. Accordingly venue lies in this Court, under 42 U.S.C. §1339(b).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. Prior to the filing of this action, the plaintiff timely filed a written charge of national origin discrimination simultaneously with the Delaware Department of Labor and the Equal Employment Opportunity Commission on September 15, 2004 (a copy of which is attached hereto as Exhibit No. 1), alleging the discriminatory conduct, which occurred not more than 300 days prior to the date of the filing of the charge and continuing through August 26, 2004, constituting a continuing course of conduct by the defendant.

6. Thereafter, on February 14, 2006, the Equal Employment Opportunity Commission issued to the plaintiff a "Dismissal and Notice of Rights" letter otherwise known as a "Right to Sue Letter", which was received by the plaintiff on or about February 17, 2006 (a copy of that "Dismissal and Notice of Rights" letter is attached hereto as Exhibit No. 2).

FACTS

7. The plaintiff was first employed by the district in 1991.

8. The plaintiff received her education in France, having received a Master of Laws Degree at the Faculte' de Droit University, Nice, France, in 1975.

9. The plaintiff received an advanced degree, consisting of a Master of Arts Degree from the University of Delaware in 1999.

10. The plaintiff completed all of the coursework necessary for the issuance of a "Delaware Administrative-Secondary School Principal Certification", upon the hiring by the defendant as an administrator.

11. During the period of 1995 through 1998, the plaintiff was the lead teacher for foreign languages, designing and organizing Delaware Foreign Language Olympics.

12. In 1996 the plaintiff was designated a Distinguished Teacher by the White House Commission on Presidential Scholars, and in 1997 was selected Delaware's Foreign Language teacher of the year.

13. In the year 2000, the plaintiff was selected as a team member for the National Board for Professional Teaching Standards.

14. The plaintiff has been selected and has administered and been awarded National Education grants for teaching.

15. During the applicable period of time, within 300 days of the filing of the charge herein, the plaintiff has applied on numerous occasions for administrative positions with the defendant.

16. As a part of that application process, the plaintiff received, from various individual district administrators and various principals, not involved in any of the selection process recommendations commending her for her organizational skills and administrative abilities.

17. During the period of time that the plaintiff was applying for an administrative position, administrators of the district were heard to state that as a native of France and a French language teacher, she would never receive an administrative position.

18. Employees of the district who applied for the same positions as the defendant, and were awarded the positions, were less qualified than the plaintiff, and in many instances, had not completed the necessary coursework for the issuance of the required certification for the relevant positions, and/or did not possess a Masters Degree.

19. The district has stated that, on some occasions, the reason the plaintiff was not awarded a position as an administrator and/or principal was that she was not the most qualified applicant, despite the fact that the persons who were awarded such positions, were either less qualified than her, or did not have the requisite statutory certification for the positions.

20. The reasons stated by the district for not awarding to the plaintiff the administrative positions for which she applied are pretextual reasons for discrimination shown by the varying and inconsistent reasons stated by the district for not awarding such administrative and/or principal positions to the plaintiff.

21. As a direct and proximate result of the discriminatory conduct by the district, towards the plaintiff, the plaintiff has suffered a significant loss of income, and future earnings.

22. As a further and direct proximate result of the discriminatory conduct by the district, directed toward the plaintiff, the plaintiff has suffered, and will suffer in the future loss of prestige, professional recognition, as well as pain, suffering and mental anguish

COUNT I

Discrimination Under 42 U.S.C. §2000e

23. The plaintiff incorporates herein and makes a part hereof the allegations contained in paragraphs 1 through 22.

24. The district has discriminated, as well as treated the plaintiff differently than similarly situated native born Americans, in that the plaintiff has been denied promotions and advancement based upon her national origin, all in violation of 42 U.S.C. §2000e-2.

COUNT II

Retaliation Under 42 U.S.C. §2000e-3

25. The plaintiff's incorporates herein and makes a part hereof the allegations contained in paragraphs 1 through 24.

26. After the plaintiff was denied several promotions, the plaintiff complained to the administration about the failure of the administration to promote her to an administrative and/or principal's position.

27. The defendant has, since the plaintiff's protected actions, changed her job description to that of an "unassigned teacher".

27. The actions of the district, described herein, towards the plaintiff in further denying the plaintiff professional advancement and promotion, were a result of the plaintiff's expressed opposition to and claims of employment discrimination, and as such were retaliatory in violation of 42 U.S.C. §2000e-3.

WHEREFORE, the plaintiff's requests this Court to enter a judgment in her favor and against the defendant district as follows:

- a. Declare the conduct engaged in by the district to be in violation of the plaintiff's statutory rights.
- b. Ordering the promotion of the plaintiff to an administrative and/or principal position at the time of the next available opening, commensurate with her time, experience, abilities, and credentials.
- c. Award to the plaintiff back pay, front pay, and other monetary damages to compensate her for pecuniary losses, which she has suffered in the past and which she will suffer in the future as a result of the wrongful conduct of the district.
- d. Award the plaintiff, back pay compensation for her pecuniary losses from the date of the wrongful conduct described herein until the date of the judgment, plus pre-judgment and post-judgment interest.
- e. Award the plaintiff sufficient funds to compensate her for her losses, pain and mental anguish that cannot otherwise be compensated by equitable relief. \
- f. Award the plaintiff compensatory and punitive damages not otherwise specified.
- g. Award the plaintiff reasonable attorney fees and the cost of this action, pre-judgment and post-judgment interest.
- h. Award the plaintiff any and all other damages, which would make the plaintiff "whole".
- i. Award the plaintiff such other and further relief that this Court deems just and proper.

ABER, GOLDLUST, BAKER & OVER

/s/ Gary W. Aber
GARY W. ABER (DSB #754)
First Federal Plaza, Suite 600
702 King Street, P.O. Box 1675
Wilmington, DE 19899
302-472-4900
Attorney for Plaintiff

DATED: May 4, 2006

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS		DEFENDANTS			
CORINE TERMONIE b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>New Castle</u> (EXCEPT IN U.S. PLAINTIFF CASES)		BRANDYWINE SCHOOL DISTRICT COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>New Castle</u> (IN U.S. PLAINTIFF CASES ONLY)			
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Gary W. Aber, Esquire, Aber, Goldlust, Baker & Over, 702 King Street, Suite 600, Wilmington, DE 19801		ATTORNEYS (IF KNOWN)			
II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)		III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)			
<input type="checkbox"/> 1 U.S. Government <input checked="" type="checkbox"/> 3 Federal Question <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicated Citizenship of Parties in Item III)		(For Diversity Cases Only) PTF DEF Citizen of This State X 1 <input type="checkbox"/> 1 Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2 Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3 incorporated or Principal Place Of Business in This State PTF DEF Incorporated and Principal Place Of business in Another State <input type="checkbox"/> 5 <input type="checkbox"/> 5 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6			
IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTION STATUTES UNLESS DIVERSITY) 42 U.S.C. §2000e					
V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)					
CONTRACT	TORTS		FORFEITURE/PENALTY		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-- Med Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage <input type="checkbox"/> 390 Other <input type="checkbox"/> 400 Other <input type="checkbox"/> 410 Other <input type="checkbox"/> 420 Other <input type="checkbox"/> 430 Other <input type="checkbox"/> 440 Other <input type="checkbox"/> 450 Other <input type="checkbox"/> 460 Other <input type="checkbox"/> 470 Other <input type="checkbox"/> 480 Other <input type="checkbox"/> 490 Other <input type="checkbox"/> 500 Other <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Right	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other PROPERTY RIGHTS <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act LABOR SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWV (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -- Third Party 26 USC 7609 PUBLIC RIGHTS <input type="checkbox"/> 422 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> Other Statutory Actions	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Equipment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Right			
VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)				Transferred from <input type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation	Appeal to District <input type="checkbox"/> 7 Judge from Magistrate Judgment
VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> UNDER F.R.C.P 23		CLASS ACTION	DEMAND \$	Check YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
VIII. RELATED CASE(S) IF ANY		(See instructions) JUDGE _____ DOCKET NUMBER _____			
DATE May 4, 2006		SIGNATURE OF ATTORNEY OF RECORD			
UNITED STATES DISTRICT COURT					

INSTRUCTIONS FOR ATTORNEYS COMPLETING; CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify "first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) Where the plaintiff is suing the United States, its officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different state. When Box 4 is checked, the citizenship of the different parties. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

06-294

Civil Action No. _____

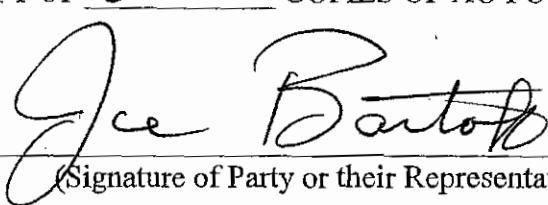
ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

5/4/06

(Date forms issued)



Signature of Party or their Representative)

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action